

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:98-00140-01

GROVER L. DILLON, SR.

MEMORANDUM OPINION AND ORDER

Pending before the court are the following pro se motions filed by defendant:

1. Petition to Stop/Defer Payment of Fine/Restitution and Costs (doc. # 174);
2. Motion for Modification of Court Payments (doc. # 201);
3. Motion and Request to Defer Payment of Restitution or Fine Until Service of the Supervised Release Portion of the Sentence (doc. # 205); and
4. Motion and Request to Defer Payment of Restitution or Fine Until Service of the Supervised Release Portion of the Sentence (doc. # 206).

Construing defendant's filings liberally, the court determined that defendant appeared to be notifying the court of a material change in his economic circumstances and requesting a change in his payment schedule. Accordingly, pursuant to 18 U.S.C. § 3664(k) and by Order dated May 12, 2009, the Clerk's Office was directed to send copies of the aforementioned motions to the government so that it could provide the required notifications and file a response to the motions.

The government filed a response in opposition to defendant's motion in which it made a number of arguments, including that the court did not have jurisdiction to consider defendant's motions for a variety of reasons. The government attached a number of exhibits to its brief, including an affidavit from defendant's counselor, Stephen G. Larkin, which sets out the methodology for determining defendant's payment schedule.

Pursuant to 18 U.S.C. § 3664(k),

defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. . . . Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

Because defendant has not shown a material change in economic circumstances under § 3664(k), the motions (Docs. # 174, 201, 205, and 206) are DENIED.

The Clerk is directed to send copies of this Memorandum Opinion and Order to defendant, counsel of record, and the Probation Office of this court.

It is SO ORDERED this 29th day of April, 2010.

ENTER:

A handwritten signature in dark ink, appearing to read "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge